

cameras to respective channels for remote viewing at viewers' locations,

providing channel selectors that permit viewers to select from among the channels,
simultaneously operating said cameras during the [entertainment] event so as to
generate a plurality of camera feeds during the event, each feed reflecting a perspective of a
respective participant,

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transmitting the plurality of feeds to the retransmitting equipment, and
retransmitting the feeds to said channels, such that each of a plurality of viewers [a
viewer] is allowed to select from a plurality of said channels to thus enable viewing of the
[sporting] event through the perspective of one or more participants of greatest interest to the
particular viewer.

REMARKS

The Office Action of September 12, 2000 has been received and its content noted. The Applicants' gratefully appreciates Mr. Wong and Mr. Kelley accommodating the Applicants' request for a personal interview. The interview was very helpful in identifying important issues to address in this response. The Applicant also appreciates the Examiner's agreement to consider this Amendment and Supplemental Response if filed on or before February 12, 2001.

Claims 1-14 are pending in this application. Reconsideration of the application is respectfully requested in view of the foregoing amendment and the following remarks.

The first sentence of 35 U.S.C. §103 requires for a determination of nonobviousness that:
(1) the scope and content of the prior art be determined, (2) the differences between the prior art and the claims be ascertained, and (3) the level of ordinary skill in the art be considered. The Federal Circuit has added evidence of "secondary considerations" as a fourth factual inquiry when determining nonobviousness. *See B.F. Goodrich Co. v. Aircraft Braking Sys.*

Corp., 37 USPQ 2d 1314 (C.A.F.C. 1996); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 5 USPQ 2d 1434 (C.A.F.C.) cert denied, 488 U.S. 825 (1988).

When judging whether the differences between the claimed subject matter and the prior art impart the quality of nonobviousness to the subject matter claimed, there are some important cautions and caveats to keep in mind.

First, 35 U.S.C. §103 requires that obviousness be determined by considering “the subject matter as a whole.” The novelty of an invention may turn solely upon whether there is any physical difference between what is claimed and the prior art, i.e., whether there exists any structural difference. By contrast, the obviousness or nonobviousness of a novel structure requires a consideration not only of physical or structural difference, but also a consideration of any differences in effect or function. The Examiner has already acknowledged that the Applicants’ claimed invention is novel by not rejecting the claims under 35 U.S.C. §102.

Also, when applying Section 103, the reference must be viewed without the benefit of impermissible hindsight afforded by the claimed invention. As the Federal Circuit has stated, a “[d]etermination of obviousness can not be based on the hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention”. *ATD Corp. Lydall*, 48 USPQ2d 1319, 1329 (Fed. Cir. 1998). This caveat is especially important in cases like the present invention wherein the subject matter is not technically complex. “Good ideas may well appear ‘obvious’ after they have been disclosed, despite having been previously unrecognized.” *Arkie Lures Inc. v. Gene Larew Tackle Inc.*, 43 USPQ2d 1294, 1297 (Fed Cir. 1997).

In view of the Applicant’s previous response to the Office Action and the Examiner’s

interview, the Applicant will focus these remarks on a few key issues. However, the Applicant maintains the positions taken in the previous response and requests that the Examiner also consider those arguments when making his determination.

In reference to claim 1, the Applicant has amended claim 1 to specifically recite a “racing event”. A racing event is the best example of the different function and result of the Applicant’s method. Each car or driver helmet would be equipped with a camera. Instead of looking at the field position or player such as in Matthews, the Applicant’s method allows a viewer to watch the race from the perspective of the participant. In effect, rather than looking at someone, the Applicant’s method allows a viewer to look through their eyes.

In the Examiner’s interview, the Examiner took the position that the difference between the claimed invention and the prior art is a mere change in camera angle. The Applicant respectfully disagrees with this assertion. As stated above, the claimed invention and prior art references must each be viewed as a whole. The Federal Circuit has stated that it is error to focus solely on the “differences” between the claimed subject matter and the prior art since the differences may be slight yet constitute the key to success. *Datascope Corp. v. SMEC, Inc.*, 227 USPQ 838 (Fed. Cir. 1985). And even if the only technical difference between Matthews and the prior art happens to be the camera angle, the claim may still be patentable if the function and result are such that the invention is nonobvious. In the present case, the Applicants argue that the result and function of claim 1 are patentably distinct from the disclosure in the prior art references. Instead of focusing on the camera angle, the entire package of benefits and properties must be considered together when determining patentability.

The Applicant’s method as recited in claim 1 would allow each of a plurality of fans to view the entire race from the perspective of each fan’s driver of interest. In the method recited

by Matthews, viewing a race through a camera positioned in a stationary position on the racetrack would only allow a viewer to see his or her driver for a brief instant of each lap. Or, if a viewer wanted to watch his driver for the entire race, the viewer would have to constantly switch camera angles. The primary interest of the viewer is not to view the various positions of the track or to quickly switch a remote handset in order to view a car, but rather to see the entire race from the standpoint of the driver himself. Matthews fails to give a plurality of viewers the ability to see or hear what live participants of the viewers' particular interest are seeing or hearing.

The Applicant's method is able to capture the excitement of a live sporting event and is an entirely different experience than Matthews and the other cited art. Rather than switching from camera to camera to view the sporting action as required by Matthews, the Applicant's method allows each viewer to see and hear the action in the same manner as a participant does. The viewers virtually ride with the driver, experiencing the track conditions and experiencing the positioning of the driver's vehicle in relation to the competitors. The viewers are able to experience firsthand the excitement of events impacting the driver, including near collisions, pit stops, driving through clouds of smoke, and making tight passes.

As stated above, secondary considerations should also be considered when determining patentability under Section 103. The long-felt need and improved results of the claimed invention are considerations that weigh in favor of nonobvious. The Examiner acknowledges in page 4 of the Office Action that the claimed invention would provide "an amazing and thrilling experience for race car audiences". The Applicant would argue that providing amazing and thrilling experience is the eternal quest of all entertainment providers, including NASCAR, television stations such as Fox that broadcast NASCAR events, and pay-per-view

providers. However, a product which utilizes the Applicant's method has never been available to a viewer. Accordingly, these considerations should weigh in favor of a determination of nonobviousness.

In reference to claim 2, the Examiner states in the Office Action that "Vancelette teaches that the viewer can listen to an audio feed of the sporting event's participants." Specifically, Vancelette actually teaches: "a viewer may not want to hear the announcer at all, but may wish to listen to a field level audio feed." (col. 5, lines 42-47) The Applicant reads this statement as teaching the sideline listening devices currently used by the broadcasters of sports such as football. Vancelette fails to teach or suggest equipping each participant with his or her own microphone or camera.

Like the Matthews reference, the teachings of Vancelette are patentably distinct from the Applicant's invention. Vancelette teaches a system that allows a television viewer to select specific camera angles and audio feeds of an event which is broadcast by a programming service provider. Vancelette fails to teach a method that allows a viewer to see and hear the action of a sports entertainment program from the perspective of the participant. Thus, even if the references were combined, the results would not yield the Applicant's invention.

Finally, in reference to claim 9, the present invention allows the provider of the video images to keep track of viewers' requests for camera feed as a function of the participants of interest, and this in turn allows a more effective way to compensate participants and price advertising opportunities. The Examiner cited Vancellette in the Office Action as teaching "the use of a rating scheme for gathering statistics on what most people watch and which camera feed is the most common (col. 7, lines 65-67), and essentially gathering ratings is equivalent to gathering viewer's requests". As discussed in the Examiner's interview,

Vancellette does indeed recite a "rating scheme". However, the term in Vancellette is used in a different context from a ratings scheme for gathering viewer's requests or statistics. Col. 7, lines 65-67 in Vancellette recites "The audio/video may also be grouped according to a rating scheme based on, e.g., adult content, violence or the like.". Vancellette is referring to a rating scheme to rate the audio or video content of a movie, e.g. R, PG, PG-13, etc. Accordingly, Vancellette fails to teach the tracking feature recited in claim 9. In order to establish prima facie obviousness, each and every limitation of the claims must be taught or suggested by the prior art. See MPEP §§ 2143, 2143, 2143.03.

Further, there is no express or implied motivation provided in the prior art to achieve this aspect of the claimed invention as recited in claim 9. In Matthews, for example, viewers' selections of portions of a playing field does not permit an effective means for allocating interest to particular participants since Matthews provides no means for determining who, among a plurality of participants, is present in the selected portion or for tabulating the amounts of time the viewers chose to watch respective participants.

In view of the foregoing amendment and remarks, it is respectfully submitted that the present invention defined in claims 1-14 are patentably distinguishable over the prior art of record and that the present application is thus in condition for allowance.

Respectfully submitted,



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